MAY 25 1967

Supreme Court of the United States

October Term, 1966

No. 1386

ADAM CLAYTON POWELL, JR., et al.,
Plaintiffs-Petitioners,

against

JOHN W. McCORMACK, et al.,
Defendants-Respondents.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

MOTION OF THE NATIONAL COUNCIL OF CHURCHES FOR LEAVE TO FILE BRIEF *AMICUS CURIAE*

WILLIAM S. ELLIS,
51 East 42nd St.,
New York, N. Y. 10017,
Attorney for Amicus Curiae.

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Motion of the National Council of Churches for Leave to File Brief *Amicus Curiae*

The National Council of Churches of Christ respectfully moves for leave to file a brief as *amicus curiae* in support of the petitioners herein. Petitioners have orally consented to the filing of an *amicus curiae* brief by this institution but, in view of the emergency nature of this proceeding, no application therefore has been made to respondents.

The National Council of Churches of Christ is composed of thirty-four Christian communions, whose aggregate membership is 42,500,000 and is governed by a General Board of 255 members elected by the several member communions.

The interest of *amicus* in this case arises from the General Board's concern for the full participation of all

citizens in the processes of representative government and the securing to minorities of an equal voice in the determining of the nation's affairs. As the General Board has stated:

> We believe that equal representation is every person's fundamental right and a necessary adjunct to full political personhood . . . Individuals may refrain from exercising their franchise, but it ought not to be kept or taken from them.
>
> (Policy statement of the General Board, "Equal Representation Is a Right of Citizenship," adopted June 3, 1965)

The National Council of Churches is desirous that the people of petitioner's Congressional district should not be without representation in the Congress of the United States for a day longer than necessary, and therefore prays permission of the court to enter a *brief amicus curiae* on behalf of the petitioner's appeal under Rule 20.

Respectfully submitted,

WILLIAM S. ELLIS,
51 East 42nd St.,
New York, N. Y. 10017,
Attorney for Amicus Curiae.

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BRIEF *AMICUS CURIAE*

Interest of the *Amicus Curiae*

The National Council of Churches of Christ in the U.S.A. is a membership corporation under the laws of the State of New York, composed of thirty-four Protestant and Orthodox religious denominations, which themselves have an aggregate membership of over 42,500,000 throughout the United States. It is governed by a representative General Board whose members are selected by the several communions in proportion to their size and according to their own respective procedures.

The General Board meets three times a year to determine the policies under which the National Council of Churches of Christ operates. Since its organization in

1950, the General Board has repeatedly championed the rights of minorities to full membership in American society, and in June, 1967, the Board endorsed the decisions of the U. S. Supreme Court on the issue of reapportionment, believing that "Equal representation is a right of citizenship." The Board said:

> We do not find in the nature of men as children of God any distinction of kind such that one man should cast a vote worth more than another's. Neither race nor religious adherence, neither property nor education, neither rural residence nor urban, nor appeal to states' rights, entitles one man or group of men to a disproportionate share in the basic franchise by which their civic affairs are governed. . . .
>
> If the right to vote is denied, or if the vote itself is diluted, then to that extent the membership of the voter in civil society is diminished and his political personhood is impaired. He becomes less of a "man" than his fellows, and loses to them some portion of his right to help determine his civic destiny. This is a moral question and ultimately a theological one, concerning which the National Council of the Churches of Christ may not remain silent.

(Policy statement, "Equal Representation is a Right of Citizenship," adopted June 3, 1965)

The aforesaid concern of the General Board applies *a fortiori* to the predicament of a minority group, such as the predominantly Negro and Puerto Rican population of the Eighteenth Congressional District of New York, whose duly elected representative is excluded from Congress by vote of the representatives of other parts of the country, thereby effectively depriving them of representation of their choice in the House of Representatives.

On March 1, 1967, the House of Representatives excluded the duly elected representative of the Eighteenth Congressional District of New York from membership, on grounds not related to the qualifications stipulated in the Constitution. This petition pertains to House Resolution 278, of March 1, excluding him from the House of Representatives, which could result in the deprivation of the citizens of the 18th Congressional District of their chosen representation in Congress during the remainder of the 90th Congress.

Argument.

Since there is a danger of continuing deprivation of the fundamental right of the citizens of the 18th Congressional District to representation in Congress, this court should grant certiorari to the petitioners.

The constitutional right of a citizen to vote, elect and be represented by a legislator of his choice has been well established. *Ex parte Yarborough,* 110 U.S. 651 (1883); *United States* v. *Mosley,* 238 U.S. 383 (1915); *United States* v. *Classic,* 313 U.S. 299 (1941), rehearing denied, 314 U.S. 707 (1941). As a result of House Resolution 278, the citizens of the 18th Congressional District have been deprived of their elected representative in the 90th Congress and this resolution could bar Congressman Powell from the 90th Congress again, even though he has been re-elected.

This vital issue of continuing deprivation of representation in Congress makes it essential for this Court to grant certiorari to the petitioners and to expedite the hearing and determination pursuant to Rule 20 of this Court.

CONCLUSION

We respectfully join in the request of petitioners that this Court grant certiorari.

May 23, 1967
New York, New York

Respectfully submitted,

WILLIAM S. ELLIS
Attorney for Amicus Curiae